HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22905 of 2006

Dated:06.12.2006

Between:

Syed Sadath Bee.

…Petitioner

and

The District Collector and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22905 of 2006

ORDER:

The petitioner is allegedly owner of a house site admeasuring 167 square yards comprised in Survey Nos.44, 45, 46, 57 and 58 situated at Gajularamaram Village of Qutbullahpur Mandal in Ranga Reddy District. Alleging that the fifth respondent herein tried to interfere with the ingress and egress to the petitioner's house site, she filed O.S.No.369 of 2005 on the file of the Court of the Junior Civil Judge, Medchel, Ranga Reddy District, for perpetual injunction. An *ex parte* decree was passed and the petitioner filed E.P.No.30 of 2005 for executing the decree. She also made a complaint to the Police complaining trespass. In spite of the same, the Officials failed to take any action against the fifth respondent as he is a converted Christian and they are afraid of criminal charges under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The petitioner therefore, filed instant Writ Petition seeking a writ of mandamus directing respondents 1 to 3 to take action against the fifth respondent.

At the stage of admission itself, the third respondent has filed a counter affidavit denying the petition allegations. It is stated that the

petitioner purchased 167 square yards from Koneru Balaji under registered sale deed bearing Document No.1274/97, and erected a Timber Depot (shed). The wife of the fifth respondent was assigned a house site admeasuring 45 square yards in Survey No.56 belonging to the Government in the category of Inter Caste Marriage in 2005. The plot was demarcated and handed over to the fifth respondent's wife. She commenced construction. At that stage, the petitioner filed O.S.No.369 of 2005 and obtained *ex parte* decree on 16.11.2005 against the fifth respondent. In the E.P filed by the petitioner, being E.P.No.30 of 2005, the constructions made by the fifth respondent were ordered to be demolished. And accordingly on 15.04.2006 the Bailiff of the Court demolished the structures raised by the fifth respondent. It is also stated that the complaint given by the petitioner against the fifth respondent under Sections 447 and 506 of the Indian Penal Code, 1860, is registered as F.I.R.No.125 of 2006. The Assistant Director, Survey and Land Records, has been requested to demarcate the land in Survey No.56 assigned to the wife of the fifth respondent and the report is awaited. In the meanwhile, one Amar Babu and others gave a complaint to the District Collector, who by letter dated 20.10.2005, ordered enquiry. Therefore, the fifth respondent was asked to stop constructions by memo dated 05.11.2005. During the enquiry by the third respondent, it was found that none of the persons came forward to give evidence. The other allegations made by the petitioner are denied.

Learned Counsel for the petitioner submits that when the fifth respondent occupied the Government land, which forms ingress and egress to the petitioner's property, by not taking any action against the fifth respondent, respondents 1 and 2 acted arbitrary. He also submits that the civil Court has already passed a decree directing the fifth respondent to remove the obstruction and therefore, the respondents ought to have cancelled the assignment of the plot. **Per contra**, the learned Assistant Government Pleader for Revenue (General-T) submits that the wife of the fifth respondent was allotted house site admeasuring 45 square yards, that in view of the complaint given to the District Collector, enquiry was initiated and that as and when the report of the Assistant Director of Survey and Land Records is received, the same will be examined. He also points out that the constructions made by the fifth respondent have already been demolished by the Court Bailiff, and therefore, inaction on the

complaint is misconceived.

After hearing the learned Counsel for the petitioner, the learned Assistant Government Pleader for Revenue and after perusing the writ affidavit and the counter affidavit, this Court is convinced that as the petitioner has already approached the civil Court and obtained a decree against the fifth respondent, nothing prevents her to approach the civil Court against assignee of the land in Survey No.56 (wife of the fifth respondent) if the petitioner's allegation is true. Further, mere assignment of land in Survey No.56 belonging to the Government in favour of the wife of the fifth respondent does not violate any right of the petitioner. The petitioner cannot claim any propriety rights on the Government land and it is for the Government to assign the land to the eligible persons. As pointed out by the learned Assistant Government Pleader, the fifth respondent was asked to stop construction pending enquiry, and the report of the Assistant Director is awaited. The petitioner may therefore approach the third respondent insofar as the grievance regarding the pathway/ingress and egress to her house site is concerned. In this Writ petition no relief can be granted.

The Writ Petition is therefore, dismissed. No costs.

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(V.V.S.RAO, J)

06.12.2006
vs